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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,496	04/15/2004	John C. Sullivan	35502US1	8554
116 7590 04/03/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
NGUYEN, KIEN T				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,496

Applicant(s)

SULLIVAN ET AL.

Examiner

KIEN T. NGUYEN

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 6-9, 11-14, 20, 21, 26-28, 30, 33-39, 44, 46-51 and 54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 15-19, 23-25, 31, 32, 40-43, 45, 52 and 56-58 is/are rejected.
- 7) ☒ Claim(s) 22, 29, 53, 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow U.S. D 413,152.

Chow appears to illustrate a first mounting plate; a spring having a first end portion secured to the first mounting plate such that the spring is perpendicular to the first mounting plate, an image (football player) secured to the first mounting plate; the spring is adapted to facilitate a wobble movement of the mounting plate and image in a clockwise and counterclockwise manner with respect to the longitudinal axis of the spring. A second mounting plate secured to the second end portion of the spring such that the spring is perpendicular with respect to the second mounting plate. Fig. 1 shows a clip or a fastener which is considered a spring mount for securing the spring to the first mounting plate. The image (football player) is considered a photograph.

Regarding claim 4, it would have been a matter of design choice to substitute the clip or fastener as shown in Fig. 1 with any equivalent securing means such as epoxy resin and/or adhesive to perform the same function.

Regarding claim 52, it would have been a matter of design choice to utilize any particular compressed height for the spring to accommodate any particular environment.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chow in view of Micco U.S. Patent 5,280,905.

It is noted that Chow failed to teach a microchip to produce sound as claimed. However, Micco disclosed a tacking dummy having a sound device for producing sound. Therefore, it would have been obvious to one of ordinary skill in the art to modify the figurine of Chow with the sound device as taught by Micco for the purpose of providing an interactive display for the user.

Claims 16, 17, 45 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Mas in view of Micco.

It is noted that Del Mas failed to teach the body as a press board with a image in a form of a photograph, and a microchip to produce sound as claimed. However, Micco disclosed a tacking dummy having a press board (12) and a photograph (14) provided thereon, and a sound device for producing sound. Therefore, it would have been obvious to one of ordinary skill in the art to modify the figurine of Del Mas with the press board with the image and the sound device as taught by Micco for the purpose of providing an interactive display for the user.

Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Del Mas.

It is noted that Del Mas failed to teach the material of the body as claimed. However, it is well know in the art to manufacture the toy with various materials such wood and/or metal and Del Mas also expressed a desire to manufacture the toy with other materials as well (see col. 1, lines 51-55) to accommodate any particular user.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Del Mas.

It would have been a matter of design choice to utilize any particular compressed height for the spring of Del Mas to accommodate any particular environment.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lui.

It would have been a matter of design choice to utilize any particular compressed height for the spring of Lui to accommodate any particular environment.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 18, 19, 40, 41, 43, 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Del Mas U.S. Patent 2,760,303.

Del Mas disclosed a wobble object comprising a background image (10); a wobble image (61) is adapted to wobble back and forth in a clockwise and counterclockwise with respect to the background image. The background image (10) could be considered an advertisement and the wobble image is coupled to the advertisement via a spring (56) perpendicularly mounted between the advertisement and the wobble image. The background image could be served as a reminder such as a board for a sticky note reminder.

With regards to claims 15, 18, 19, 56 member (14) is considered a body; member (61) is considered an image; member (19) is considered a base and it has a slot as

shown in Fig. 3 for a bottom portion (23, 31) of the body. The body is made from plastic material.

Claims 23-25, 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Lui U.S. Patent 5,511,359.

Lui disclosed an object comprising a paper (42) for printing a desired image; a mounting assembly (14) to secure to the back side of the image and including at least one mounting plate and a spring (30) secured to the mounting plate in a perpendicular manner. A slot with an opening is considered a body for securing the mounting assembly and image thereto. A base (22) is for supporting the body. The spring (30) has flat ends as shown in Figs. 3 and 4.

Allowable Subject Matter

Claims 22, 29, 53, 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIEN T. NGUYEN whose telephone number is (571)272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kien. T. Nguyen/
Primary Examiner
Art Unit 3711

Ktn